

Monica Ferguson, pro se
PO Box 945
Lake Oswego, OR 97034
503-358-7908

U. S. District Court
District of Oregon, Portland Division
Mark O. Hatfield U.S. Courthouse
1000 S.W. Third Avenue
Portland, OR 97204

MONICA FERGUSON,
Plaintiff, pro se
PO Box 945
Lake Oswego, OR 97034

Case Number: 3:20-cv-00212 YY

v.

Robert Wilkie, Secretary,
DEPARTMENT OF VETERANS
AFFAIRS,
Defendant.

Portland VA Medical Center
3710 SW US Veterans Hospital Rd.
Portland, OR 97239

Department of Veterans Affairs
810 Vermont Avenue, NW,
Washington, DC 20420.

Non-Jury Trial Demanded

COMPLAINT

PRELIMINARY STATEMENT

This is an employment related action for violation of the Plaintiff's civil rights and other applicable rights by her former employer, Portland VA Medical Center, Department of Veterans Affairs (hereafter "Defendant"), under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"). The former employer, Defendant, discriminated and retaliated against Plaintiff, a Nurse Practitioner

with RN license and Master's degree, based on her national origin (Romania) and for her prior complaint of discrimination, when (1) on November 17, 2017 Defendant provided the Oregon State Board of Nursing (OSBN) partial but negative employment records ranging between September 2006 and October 11, 2013, even though OSBN's March 21, 2017 request was for the period between 2006-2012. Plaintiff learn of this on December 26, 2018; (2) reported Plaintiff to Defendant's Office of Inspector General with false allegations—the fact she learned on February 12, 2019; (3) sometime prior to May 14, 2019 Defendant inserted in Plaintiff's Official Personnel File a performance proficiency evaluation filled out incompletely and without her input—the fact which she discovered on or about May 14, 2019 when she reviewed her Official Personnel File; and (4) sometime in 2018 or 2019 Defendant submitted a negative report on Plaintiff to the National Practitioners Data Bank (NPDB)—the fact which she learned in late September 2019.

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII").
2. The unlawful employment practice alleged below was committed and/or executed by supervisory personnel of the Portland VA Medical Center, Department of Veterans Affairs, located at 3710 SW US Veterans Hospital Rd., Portland, OR 97239.

PARTIES

3. The pro se Plaintiff, Monica Ferguson, is an adult individual who has a mailing address of PO Box 945, Lake Oswego, OR 97034. Her phone number is: 503-358-7908.
4. The Defendant, Robert Wilkie, is the Secretary of the Department of Veterans Affairs, who has a mailing address of 810 Vermont Avenue, NW, Washington, DC 20420.

STATEMENT OF FACTS

5. Plaintiff's national origin is Romania. She speaks English well with foreign accent.
6. On January 3, 2003 Plaintiff was hired as RN at Portland VA Medical Center in ICU unit until 2006.
7. On September 4, 2006 Plaintiff became a Nurse Practitioner.
8. Between 2006 and 2007 she worked at Vancouver Community Based Outpatient Clinic (CBOC), Washington, under VA Portland Health Care System.
9. Between 2007 and 2008 she worked at Salem CBOC, Oregon.
10. Between March 2008 and October 2008, she worked at Portland VAMC in Operative Division.
11. Between October 2008 and 2011 she worked at Portland East CBOC.
12. In late 2010 Plaintiff took a maternity leave for approximately 4 months.
13. Between 2012 and October 11, 2013 she worked at Vancouver CBOC under VA Portland Health Care System.
14. On July 11, 2013 Michael D. Alperin, Clinical Director, Primary Care, Portland VACM, issued a notice of a proposed removal and revocation of clinical privileges.
15. On August 19, 2013 and September 17, 2013 Plaintiff rebutted the proposed removal notice.
16. On October 1, 2013 Brian W. Westfield, Interim Medical Center Director, Portland VACM, issued the notice of decision to remove Plaintiff and to revoke her clinical privileges.
17. Since December 2013 Plaintiff was self-employed by House Call Medical Services, the entity which she founded.
18. Since 2015 Plaintiff was also self-employed by At Home Primary Care, the entity which she founded.
19. In March 2017 Oregon State Board of Nursing (OSBN) opened an investigation on Plaintiff's aforementioned practice based on a former disgruntle employee who quit on February 14, 2017.
20. On September 14, 2017 Oregon State Department of Human Services reported Plaintiff to OSBN.

21. On December 7, 2017 Plaintiff received a Notice from OSBN of Proposed Revocation of her RN and NP licenses.
22. On January 2, 2018 Plaintiff via her attorney responded to OSBN's proposed revocation notice.
23. From March 6 through March 8, 2018 Christopher C. Dorr, Administrative Law Judge, held an administrative hearing for the Department of Human Services (DHS) (OAH Reference No. 2017-DHS-06170; Dept. Case No. 764053) and issued a Final Order dated September 13, 2018, ordering DHS to terminate Plaintiff's Medicaid provider enrollment and number (MPEN).
24. From June 25 through June 27, 2019 Senior ALJ Joe L. Allen conducted an administrative hearing for OSBN (OAH No. 2018-ABC-01209; Agency No. 17-01600) and on Nov. 1, 2019 issued a Proposed Order, ordering OSBN to revoke Plaintiff's Nurse Practitioner Certificate and Registered Nurse License.
25. On September 19, 2019 Plaintiff was placed on Exclusion list by NPDB, excluding her "indefinitely" from Medicare/Medicaid and all other federal health care programs.
26. In September or October 2019 NPDB notified Plaintiff of adverse actions that have been logged against her.
27. On January 3, 2020 NPDB notified Plaintiff of revocation of her license based on report filed by Oregon State Board of Nursing.
- 28. Based on her national origin (Romania) and in retaliation of her prior protected EEO activities, Plaintiff was discriminated against when:**
 - a. On November 17, 2017 Defendant provided the Oregon State Board of Nursing (OSBN) partial but negative employment records ranging between September 2006 and October 11, 2013, even though OSBN's March 21, 2017 request was for the period between 2006-2012. Plaintiff learn of this on December 26, 2018.
 - b. Sometime prior to February 12, 2019 Defendant reported Plaintiff to Defendant's Office of Inspector General with false allegations—the fact she learned on February 12, 2019.
 - c. Sometime prior to May 14, 2019 Defendant inserted in her Official Personnel File a performance proficiency evaluation filled out incompletely and without her input—the fact she discovered on or about May 14, 2019 when she reviewed her Official Personnel File.

- d. Sometime in 2018 or 2019 Defendant submitted a negative report on Plaintiff to the National Practitioners Data Bank (NPDB)—the fact which she learned in late September 2019.

PRIOR PROTECTED ACTIVITIES

1. On July 31, 2010 Plaintiff filed a discrimination complaint based on her pregnancy/female.
2. On September 30, 2011 Plaintiff filed an informal discrimination complaint based on her pregnancy female, national origin (Romania) and her prior EEO activity. On November 14, 2011 she filed a formal EEO complaint: Agency Case number 200P-0648-2011910010, identifying the following responsible management officials: James Santoro, Debra Sprando (RN Office Manager), Michael Alperin (Director of Primary Care Division), Jean Moore (Director of Nursing, Primary Care Division), Robert Gorsuch (Group Practice Manager), Kathy Chapman (Nursing Director), Tom Anderson (Chief of Staff), John Patrick (Director of Portland VAMC).
3. On August 11, 2013 Plaintiff, via her attorney, Kristel K. Farris (a union representative), filed a motion to amend the claims for adding the July 11, 2013 proposed removal notice.
4. On August 7, 2013 Admin. Judge Steven R. Gaffin notified the following individuals as the approved witnesses, among others: James Santoro, Fernando Carrillo, Debra Sprando, Terisa Sjue-Loring, Thomas Anderson, Clarisa Borrego, Joyce Beck, Thomas Carr, Ida Farley, Kim Koon, Cynkutis-Simon, Lakshi Aldredge, Jamie Zitterkopf, Frank Colistro, Robert Gorsuch.
5. On September 3 and 4, 2015; December 8 and 10, 2015; and January 5, 2016 EEOC hearings were held.
6. On February 9, 2017 EEOC Administrative Judge Steven R. Gaffin issued a decision after a hearing, dismissing the claim: 200P-0648-2011910010, EEOC case number: 550-2012-00304X.
7. On or about February 21, 2017 Defendant issued its Final Agency Decision.
8. On March 21, 2017 Plaintiff filed an appeal with Office of Federal Operations.
9. On June 21, 2017 Plaintiff filed an appeal with Office of Federal Operations on the above EEO claim.

10. From March 6 through March 8, 2018 Christopher C. Dorr, Administrative Law Judge (ALJ), held an administrative hearing for the Department of Human Services (DHS) (OAH Reference No. 2017-DHS-06170; Dept. Case No. 764053), in which Plaintiff alleged Defendant's discriminatory practices of the past during her employment with Defendant.
11. From June 25 through June 27, 2019 Senior ALJ Joe L. Allen conducted an administrative hearing for OSBN (OAH No. 2018-ABC-01209; Agency No. 17-01600), in which Plaintiff alleged Defendant's discriminatory practices of the past during her employment with Defendant.
12. On December 21, 2018 Office of Federal Operations issued a decision (Appeal No. 0120171570) denying the appeal on the above case numbers.
13. On January 2, 2018 Shannon N. Rickard, Esq., on behalf of Plaintiff, responded to the Oregon State Board of Nursing's notice of proposed revocation of Plaintiff's nurse practitioner certificate and RN license, and argued that Defendant's suspension of Plaintiff's clinical privileges by Portland VACM on October 11, 2011 were discriminatory (under paragraph 9 on page 5).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. On May 21, 2019 Plaintiff filed a formal EEO complaint alleging the claims listed above: Agency Case no. 200P-0648-2019102804.
2. On July 11, 2019 Defendant dismissed the claim.
3. On August 11, 2019 Plaintiff filed an appeal with Office of Federal Operations.
4. On November 13, 2019 Carlton M. Hadden, Director of Office of Federal Operations issued a decision (Appeal No. 2019005808; Agency Case no. 200P-0648-2019102804) dismissing Plaintiff's claim of discrimination and retaliation regarding the issues alleged herein—with the notice of right to file a civil action.
5. On October 18, 2019 Plaintiff contacted EEO office to file a claim regarding Defendant submitting the negative report on her to National Practitioners Data Bank.
6. On November 29, 2019 Plaintiff filed a formal discrimination and retaliation complaint on the same matter.
7. On January 22, 2020 Defendant issued its Final Agency Decision, dismissing the matter, with the notice of right to file a civil action.

REMEDIES SOUGHT

Plaintiff seeks that Defendant rescind and withdraw as null and void any and all records and information provided to ^{Oregon (mf)} Ohio State Board of Nursing and National Practitioners Data Bank during the course of any and all administrative proceedings.

NO JURY DEMAND

The Plaintiff herein hereby a bench decision on all issues in this action.

WHEREFORE, the Plaintiff respectfully requests that the Court enter judgment in her favor and against the Defendant.

Respectfully Submitted,

[signed]


Monica Ferguson,
Plaintiff, Pro Se
PO Box 945
Lake Oswego, OR 97034
503-358-7908

CERFITICATE OF SERVICE

I, the undersigned, hereby certify that I have served the foregoing document to the following parties by means indicated below on the date of signature below:

U. S. District Court
District of Oregon, Portland Division
Mark O. Hatfield U.S. Courthouse
1000 S.W. Third Avenue
Portland, OR 97204

Via Hand-delivery

Darwin G. Goodspeed
Portland VA Medical Center
3710 SW US Veterans Hospital Rd.
Portland, OR 97239

Via Priority Mail

Robert Wilkie, Secretary
Department of Veterans Affairs
810 Vermont Avenue, NW,
Washington, DC 20420

Via Priority Mail

US Attorney's Office
District of Oregon
1000 SW 3rd Ave., #600
Portland, OR 97204

Via Priority Mail

February 10, 2020

[signed]

Date

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Plaintiff, Pro Se
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2/10/2020